

REMARKS

This Amendment is in response to the non-final Office Action mailed August 4, 2009, in which all of the pending claims (32-37) were rejected. With this Amendment, claims 32-37 are amended and presented for reconsideration and allowance.

Claim Rejections – 35 U.S.C. § 112

Claims 32 and 35 were rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Specifically, the Office Action contends that the clause “a portion of the longitudinal slit in the distal portion of the septum is closed” is unsupported by the specification. The clause at issue is removed from claims 32 and 35, but a similar clause “the portion of the slit in the distal portion of the septum is biased closed” is added to dependent claims 33 and 36 where the intended element has more context.

Both of the foregoing clauses are supported by the specification as filed. Paragraph 0020 of the specification states:

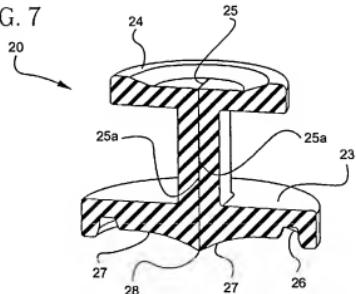
Another mechanism to facilitate the closing of the connector against fluid flow is to have the septum and housing configured so that the septum is compressed along the sides of the slit at least at the distal portion of the septum. Alternatively or concurrently, the septum and housing can be configured so that the septum is pulled in tension at the ends of the slit. This configuration provides a tight seal to prevent leakage and microbial ingress. In order to achieve this force distribution, the distal portion of the septum could be formed with a substantially circular cross section while the housing adjacent to the distal portion of the septum when the septum is in its prestressed condition could be formed with a substantially elliptical or oval cross section. If the slit is located so that it is aligned with the major axis of the ellipse, i.e., the transverse axis of the slit and the major axis of the ellipse are collinear or parallel, the slit will be biased to a closed position. The minor axis of the ellipse will tend to compress the sides of the slit together while the major axis of the ellipse will tend to place the ends of the slit in tension thus forcing the slit closed. This effect can also be achieved by forming complementary tabs and slots in the septum and housing that pull and push the septum in the appropriate directions. In addition, this effect can be achieved by forming the distal portion of the septum with a substantially elliptical or oval cross section and the relevant portion of the housing could be formed with a substantially circular cross section. With this configuration, the transverse axis of the slit should be collinear or parallel to the minor axis of the slit. This circle will tend to pull the minor axis apart and push the major axis together to close the slit.

The above clauses are further supported by paragraphs 0087-0088 and corresponding FIGS. 37-42. Since the specification clearly explains the relationship between the shape of the housing (including the channel) and the shape of the septum (including the distal portion), as well as the effect that this relationship has on the slit, removal of the § 112 rejection is warranted.

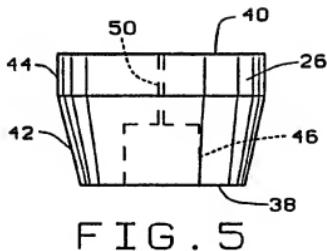
Claim Rejections – 35 U.S.C. § 102

Claims 32-37 were rejected under 35 U.S.C. § 102 as being anticipated by Behnke et al. (U.S. Pat. No. 5,354,275). Independent claims 32 and 35 are amended to further distinguish the present invention over Behnke. Specifically, claims 32 and 35 now require that the septum 20 has three distinct portions: an enlarged proximal portion 21, a narrow elongated medial portion 22 having an external surface and a cross section less than a cross section of the proximal portion and less than the cross section of the channel, and an enlarged distal portion 23. See the present specification at paragraphs 0076-0077 and FIG. 7 reproduced below.

FIG. 7



In both embodiments of Behnke, septum 26 has an inner portion 42 that tapers from an outside end 40 to an inside end 38 in order to facilitate insertion of septum 26 into housing 30. See Behnke '275 at col. 4, ll. 27-36 and FIG. 5 reproduced below.



Septum 26 lacks at least the narrow elongated medial portion having a cross section less than a cross section of the channel, and the enlarged distal portion required by amended claims 32 and 35. Further, septum 26 of Behnke includes a bore 46 extending axially into septum 26 from inside end 38. Presence of bore 46 renders slit 48 (formed by hole) incapable of meeting the language of claims 32 and 35. Specifically, slit 48 extends from "outside end 40 to the bore 46" and therefore fails to extend from the proximal portion (40) through the medial portion and into the distal portion (38) as required by claims 32 and 35. Behnke '275; col. 4, ll. 37-52. Since Behnke fails to teach or suggest the septum as described in claims 32 and 35, claims 32 and 35 are allowable over this reference. Claims 33-34 depend from claim 32 and claims 36-37 depend from claim 35 and are therefore also allowable over Behnke.

Conclusion

In view of the foregoing, all of the pending claims (32-37) are in a condition for allowance. Notice to that effect is respectfully requested.

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-8-

The Commissioner is authorized to charge any additional fees associated with this paper or credit any overpayment to Deposit Account No. 11-0982.

Respectfully submitted,
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